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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,968	04/25/2001	Dirk Husemann	CH9-2000-0021	9793

7590 10/08/2002

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EXAMINER

BROWN, TIMOTHY M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/843,968	HUSEMANN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Tim Brown	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 April 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-28 and 38-41 is/are pending in the application.

4a) Of the above claim(s) 29-37, 42 and 43 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-28 and 38-41 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

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**DETAILED ACTION**

1. Claims 1-28 and 38-41 have been examined. Claims 29-37, 42 and 43 have been withdrawn from consideration pursuant to the following restriction.

***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-28 and 38-41, drawn to a method for confirming an online order via mobile telephone, classified in class 705, subclass 26
- II. Claims 29-37, 42 and 43 are drawn to a carrier system for processing a payment for an online order, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

3. Group I is drawn to a method of confirming an online order via a mobile telephone while Group II is drawn to a system for processing a payment for an online order. The examination of the both groups would require divergent searches in that the claims of Group II recite a module for sending a payment confirmation to a merchant system. This limitation would require a divergent search because it is not contained within claims of Group I. Thus, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Ronald L. Drumheller on September 18, 2002 a provisional election was made with traverse to prosecute the invention of group I, claims 1-28 and 38-41. Affirmation of this election must be made by applicant in replying to this Office action. Claim 29-37, 42 and 43 are withdrawn from further

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consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4, 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 contains two occurrences of "an order confirmation." (see lines 8 and 10). This renders the claim indefinite because it is uncertain whether the second occurrence of "an order confirmation" refers to the antecedent order confirmation, or a second order confirmation.

Claim 7 recites "storing the phone number so that it is obtainable *if needed by the carrier system and/or merchant system.*" (See lines 1 and 2). This renders the scope of the claim indefinite because it is unclear what must occur before the phone number is obtained by the carrier system and/or merchant system. The specification does not define the scope of "*if needed by the carrier system and/or merchant system.*" This deficiency is repeated in lines 6 and 7 of claim 8.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**8. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472).**

Regarding claim 1, Nikander teaches a method for enabling a customer, who has access to a customer system and a mobile phone with associated phone number, to order a deliverable offered by a merchant system at a certain price, comprising:

accessing the merchant system through the customer system and a network (col. 4, lines 14-20);

performing an action on the customer system to order the deliverable (col. 4, lines 29-31);

obtaining the phone number of the mobile phone (col. 3, lines 9-16; and col. 14, lines 29-33);

charging a phone bill with a certain price (col. 4, lines 31-36 and 46-47; and col. 13, lines 9-15); and

making the deliverable available to the customer (col. 4, lines 38-40).

Nikander does not specifically teach charging a phone bill of a mobile phone for the certain price. However, it would have been obvious to one of ordinary skill in the art at the time of the applicants' invention, to include charging the phone bill of a mobile phone in that this would permit users who only maintain a mobile phone account to place charges on their phone bill.

Nikander does not teach sending an order confirmation for the deliverable to mobile phone and confirming the ordering of the deliverable using the mobile phone. However, Foladare et al. teach receiving, via a mobile phone, a notice of an impending transaction wherein the recipient may authorize or deny the impending transaction using the mobile phone (Abstract; col. 4, lines 34-49 and 58-67; and col. 5, lines 1-8). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to combine the teachings of Nikander and Foladare et al. in order to permit the confirmation of the user's order from a remote location other than the user's computer system. This would be advantageous in situations where the user is unable to wait at the location of his computer for the confirmation of his order.

Regarding claim 4, Nikander teaches a method for handling by a carrier system the payment process for a customer who ordered a deliverable through a merchant system at a certain price, the customer having access to a customer system and a mobile phone with associated phone number, comprising:

obtaining transaction information for the ordering of the deliverable from the merchant system (col. 4, lines 14-20 and 29-31);

obtaining a phone number of the customer (col. 13, lines 9-16; and col. 14, lines 29-33); and

charging a phone bill maintained by the carrier system with the certain price (col. 4, lines 31-36 and 46-47; and col. 13, lines 9-15).

Nikander does not teach obtaining the phone number of a mobile phone and charging a phone bill associated with the mobile

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phone for the purchase of the deliverable. However, it would have been obvious to one of ordinary skill in the art at the time of the applicants' invention, to obtaining the phone number of a mobile phone and charging a phone bill associated with the mobile phone. The benefit of making this combination would be to permit users who only maintain a mobile phone account to place product purchases on their phone bill. Moreover, using a mobile phone account to confirm and pay for the customer's order would provide the customer with greater flexibility in that the customer could be contacted from any remote location where mobile telephone service is available.

Nikander does not teach sending and receiving an order confirmation for the deliverable to the mobile phone using the phone. However, Foladare et al. teach this limitation as discussed under claim 1 above.

**9. Claims 2, 3, 5-8, 14, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) and Official Notice.**

Regarding claims 5 and 14, Nikander and Foladare et al. teach all the limitations discussed under claim 1 above. Nikander and Foladare et al. do not teach a merchant system that offers an online catalog with a plurality of deliverables for selection by the customer. However, the examiner takes Official Notice that displaying products in an electronic catalog is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to modify the teachings of Nikander and Foladare et al. to include a merchant system that offers an online catalog with a

plurality of deliverables in order to permit a user to browse the plurality of deliverables so as to facilitate his selection and subsequent purchase.

Regarding claim 19, Nikander and Foladare et al. teach all the limitations discussed under claim 1 above. Nikander and Foladare do not teach delivering the phone bill through a conventional distribution channel or communication link. However, the examiner takes Official Notice that delivering utility bills, including a phone bill, by both mail and a network connection, is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare et al. to include delivering the phone bill by mail or a communication link in order to inform the user of his account balance thereby permitting the user to pay an amount due.

Regarding claim 2, Nikander teaches a method for ordering a deliverable that is offered by a merchant system at a certain price comprising:

accessing the merchant system through a customer system and a network (col. 4, lines 14-20);

performing an action on the customer system to order the deliverable at the merchant system (Id.);

sending the phone number of a mobile phone of the customer to the merchant system (col. 13, lines 9-16; and col. 14, lines 29-33);

obtaining the deliverable (col. 4, lines 38-40).

Nikander does not expressly teach displaying the deliverable to a customer on the customer system. However, the examiner take Official Notice that displaying

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merchandise, as in the use of virtual catalog, is old and well known in the Internet commerce art. Therefore, at the time of the applicants' invention, it would have been obvious to one or ordinary skill in the art, to modify Nikander to include displaying a deliverable to a customer in order to convey product information including a product image and description.

Nikander does teach receiving an order confirmation on the mobile phone wherein the user subsequently transmits the confirmation to the merchant system or a carrier system. However, Foladare et al. teach this step as discussed under claim 1 above.

Regarding claim 6, Nikander teaches a checkout step following the performing of an action on the customer system in order to select the deliverable (col. 4, lines 29-31 and 38-40).

Regarding claim 7, Nikander and Foladare et al. teach all the limitations discussed under claim 2 above. Nikander and Foladare et al. do not expressly teach sending the phone number from the customer system to the merchant system wherein the phone number is stored so that it is obtainable if needed by the carrier system and/or merchant system. However, the examiner takes Official Notice that storing customer contact information in a customer account profile is old and well known in the Internet commerce art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare et al. to include sending a phone from the customer system to the merchant system in order to

permit the merchant to contact the customer should issues arise concerning the customer's product selection.

Regarding claim 16, Nikander and Foladare et al. teach all the limitations discussed under claim 2 above. Nikander and Foladare et al. do not teach assigning an order identifier for each deliverable or set of deliverables ordered. However, the examiner takes Official Notice that assigning a transaction number to a commercial exchange between a customer and a vendor is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare et al. to include assigning an order identifier for each deliverable or set of deliverables ordered so as to permit order tracking thereby making the status of the customer's order easily accessible.

Regarding claim 8, Nikander and Foladare et al. teach all the limitations discussed under claim 4 above. Nikander and Foladare et al. do not teach receiving the phone number of the mobile phone from the customer system or the mobile phone and subsequently storing it to make it accessible by the carrier system and/or merchant system. However, the examiner takes Official Notice that storing customer contact information in a customer account profile is old and well known in the Internet commerce art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare et al. to include receiving the phone number of the mobile phone from the customer system or the mobile phone and subsequently storing it to make it accessible by the carrier system and/or merchant system. This modification would permit the merchant and/or carrier to

contact the customer should issues arise concerning the customer's product selection or delivery thereof.

Regarding claim 3, Nikander teaches a method for processing by a merchant system the order of a customer for a deliverable that is offered by the merchant system at a certain price, the customer having access to a customer system and a mobile phone with associated phone number comprising:

enabling the customer to order the deliverable at the merchant system via the customer system and a network (col. 4, lines 14-20 and 29-31); and

making the deliverable available to the customer (col. 4, lines 38-40).

Nikander does not expressly teach displaying the deliverable to a customer on the customer system. However, the examiner takes Official Notice that providing a display a product display, as in the context of an online catalog, is old and well known in the art. Therefore, at the time of the applicants' invention, it would have been obvious to one of ordinary skill to include providing a display of the product in order to convey product information such as a product image and description.

Nikander does not teach receiving an order confirmation on the mobile phone wherein the user confirms the order using the mobile phone by transmitting a response to the merchant system or a carrier system. However, Foladare et al. teach this step as discussed under claim 1 above.

**10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) and Coiera et al. (US 5,949,866).**

Nikander and Foladare et al. teach all the limitations discussed under claim 1 above. Nikander and Foladare do not teach sending an order confirmation for the deliverable to the mobile phone via a GSM SMS message. However, Coiera et al. teach transmitting messages to a user by SMS (col. 3, lines 47-57; and col. 4, lines 49-57). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare to include sending an order confirmation for the deliverable to the mobile phone via a GSM SMS message as taught in Coiera et al. The benefit of this combination would be to permit a user to receive an order confirmation without having to affirmatively access his voicemail as would be required if the user was not available to receive a voice order confirmation.

**11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) and Morril, Jr. (US 5,991,749).**

Nikander and Foladare et al. teach all the limitations discussed under claim 1 above. Nikander and Foladare et al. do not teach having the mobile phone prompt the customer for a personal identification number (PIN). However, Morril, Jr. teaches operating a cell phone as an electronic wallet wherein a user enters a PIN number for identification purposes (Abstract; col. 2, lines 45-59; and col. 10, lines 60-67). At the time of the applicants' invention, it would have been obvious to modify Nikander and Foladare et al. to include the teachings of Morril, Jr. in that having the mobile phone prompt the customer for a PIN would prevent fraudulent purchases using the customer's phone.

**12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) and Lee et al. (US 6,336,137).**

Nikander and Foladare et al. teach all the limitations discussed under claim 1 above. Nikander and Foladare et al. do not teach sending an order confirmation for the deliverable to the mobile phone using the push feature of a wireless application protocol in order to push a wireless markup language (WML) script applet to the mobile phone. However, Lee et al. disclose a messaging system that implements wireless markup language between a server and one or more clients (see Background). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare to include sending an order confirmation for the deliverable to the mobile phone using the push feature of a wireless application protocol in order to push a wireless markup language (WML) script applet to the mobile phone as taught in Lee et al. The benefit of this combination would be to permit users to receive an order confirmation without having to affirmatively access his voicemail as would be required if the user was not available to receive a voice order confirmation.

**13. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) Official Notice and Coiera et al. (US 5,949,866).**

Regarding claim 10, Nikander and Foladare et al. teach all the limitations discussed under claim 2 above. Nikander and Foladare et al. do not teach receiving an order confirmation for the deliverable by the mobile phone via a GSM SMS message.

However, Coiera et al. teach transmitting messages to a user by SMS (col. 3, lines 47-57; and col. 4, lines 49-57). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare to include receiving an order confirmation for the deliverable by the mobile phone via a GSM SMS message as taught in Coiera et al. The benefit of this combination would be to permit a user to receive an order confirmation without having to affirmatively access his voicemail as would be if the user was not available to receive a voice order confirmation. Foladare et al. suggests performing the combination in that they teach informing an account holder of an impending transaction by displaying a message on a cell phone (col. 4, lines 35-67).

Regarding claim 11, Nikander, Foladare et al. and Coiera et al. teach all the limitations discussed under claim 10 above. Nikander and Coiera et al. do not teach a GSM SMS message comprising a special call-in phone number and/or an order identifier. However, Foladare et al. teach transmitting a notice of an impending transaction including detailed transaction information (col. 4, lines 35-67). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Coiera et al. to include the teachings of Foladare et al. in that including a GSM SMS message comprising a special call-in phone number and/or an order identifier would enable the customer to identify a specific transaction during the order confirmation step. Thus, the possibility of conveying an erroneous order confirmation is reduced.

Regarding claim 12, Nikander, Foladare et al. and Coiera et al. teach all the limitations discussed under claim 10 above. Nikander and Coiera et al. do not teach having the customer perform an action on the mobile phone in order to confirm the ordering of the deliverable. However, Foladare et al. teach authorizing an impending transaction by transmitting an authorization code (col. 4, lines 35-67; and col. 5, lines 1-8). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Coiera et al. to include the teachings of Foladare et al. in order to enable the customer to confirm his purchase from a remote location other than his computer system. For example, a customer would be free to leave the home while waiting for the confirmation his purchase.

**14. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) Official Notice and Green et al. (US 5,664,110).**

Regarding claim 17, Nikander and Foladare et al. teach all the limitations discussed under claim 2 above. Nikander and Foladare et al. do not teach maintaining a list of open orders by the merchant. However, Green et al. teach a remote ordering system wherein the system maintains a list of orders in an open state for subsequent modification by at least one customer (col. 7, lines 21-35). At the time of the applicants' invention it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare et al. to include the teachings of Green et al. in that maintaining a list of open orders would permit customers to build an order list over a period of time.

Thus, customers would be able to return to an open order after assessing their need for a particular item.

Regarding 18, Nikander, Foladare et al. and Green et al. teach all the limitations discussed under claim 17 above. Nikander, Foladare et al. and Green et al. do not teach a housekeeping process for removing open orders for which no confirmation is received after a pre-defined period of time. However, the examiner takes Official Notice that removing unconfirmed purchase orders after a period time is old and well known in the art. For example, retailers have long adhered to a practice of maintaining items on hold for customer for a fixed period during which they will not be offered for sale. At the time of the applicants' invention it would have been obvious to one of ordinary skill in the art, to modify Nikander, Foladare et al. and Green et al. to include a housekeeping process for removing open orders for which no confirmation is received after a pre-defined period of time. The advantage of including this limitation would be to provide enhanced inventory accounting in that items within an abandoned order list can be attributed to stock-on-hand. This would enable the merchant to avoid the needless replenishment of items that are not going to be depleted by customers with an abandoned open order.

**15. Claims 20-22, 24-27 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner et al. (US 5,758,327) in view of Foladare et al. (US 5,914,472).**

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Regarding claim 20, Gardner et al. teach a merchant system for offering a deliverable via a network to a potential customer using a customer system and a mobile phone comprising:

a network interface connectable to the network (col. 4, lines 51-67);

a processing unit (Id.);

a database for maintaining detailed information about the deliverable (col. 5, lines 24-61);

a module for making the deliverable and some or all of the detailed information about the deliverable displayable to the potential customer on the customer system (col. 4, lines 51-67; col. 5, lines 24- 67; and col. 6, lines 1-12);

a module for making the deliverable selectable by the potential customer on the customer system (col. 5, lines 24-67; and col. 6, lines 1-12);

a module for receiving an order for the deliverable from the customer system via the network and network interface (col. 6, lines 1-12); and a module for making the deliverable available to the customer (col. 5, lines 24-67; and col. 6, lines 1-12).

Gardner et al. do not teach:

- a module for causing a confirmation address to be transmitted to the mobile phone through a mobile phone telephone network; and
- a module for receiving an order confirmation issued by the mobile phone or a payment confirmation issued by a carrier system.

However, Foladare et al. teach a system for receiving, via a mobile phone, notice of an impending transaction wherein the recipient may authorize or deny the impending

transaction using the mobile phone (Abstract; col. 4, lines 34-49 and 58-67; and col. 5, lines 1-8). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to combine the teachings of Nikander and Foladare et al. in order to permit the confirmation of the user's order from a remote location other than the user's computer system. This would be advantageous in situations where the user is unable to wait at the location of his computer for the confirmation of his order.

Regarding claim 21, Gardner et al. teach a system wherein some or all of the modules are realized in form of software modules that, when executed by the processing unit provide the modules' functionality (col. 4, lines 51-67; col. 5, lines 24-67; and col. 6, lines 1-12).

Regarding claim 22, Gardner et al. teach a call-in unit connectable to a telephone network (col. 4, lines 51-67; and col. 5, lines 1 and 2).

Regarding claim 24, Gardner et al. teach a processing unit residing in a computer system (col. 4, lines 51-67).

Regarding claim 25, Gardner et al. teach a module for making the deliverable and some or all of the detailed information about the deliverable displayable is an on-line catalog (col. 5, 24-67; and col. 6, lines 1-12).

Regarding claim 26, Gardner et al. teach the module for making the deliverable available to the customer either causes the deliverable to be delivered via a conventional distribution channel, or whereby the module causes the deliverable to be delivered via a communication link to the customer system, or whereby the module

causes the deliverable to be made downloadable through a communication link (col. 5, lines 24-67; and col. 6, lines 1-12).

Regarding claim 27, Gardner et al. and Foladare et al. teach all the limitations discussed under claim 20 above. Gardner et al. do not teach a confirmation address comprising a call-in number or an e-mail address. However, Foladare et al. teach a system that permits a user to authorize an impending transaction wherein the user is contacted by a cell phone or e-mail (col. 4, lines 35-67; col. 5, lines 1-9; col. 5, lines 59-67; and col. 6, lines 34-41). Note that the system inherently teaches a confirmation address in the form of a call-in number and e-mail address in that there must be a destination for both a phone call or e-mail that is submitted by the user. At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Gardner et al. to include the teachings of Foladare et al. because providing a confirmation address in the form of a call-in number or an e-mail address would enable the customer to contact the merchant to confirm his order for the deliverable.

Regarding claims 38 and 39, Foladare et al. teaches a computer program product comprising a computer readable medium, having thereon computer program code means, when said program is loaded, for enabling a customer to order a deliverable that is offered by a merchant system at a certain price, whereby the customer use a customer system and a mobile phone execute procedure to:

access the merchant system through the customer and a network (col. 4, lines 51-67);

display the deliverable to the customer on the customer system (col. 4, lines 51-67; col. 5, lines 24-67; and col. 6, lines 1-12);

perform an action on the customer system to order the deliverable at the merchant system (col. 6, lines 1-12); and

obtain the deliverable (col. 5, lines 24-67; and col. 6, lines 1-12).

Gardner et al. do not teach a computer program code means with programming to:

- send the phone number of a mobile phone to the merchant system;
- receive an order confirmation for the deliverable on the mobile phone; and
- confirm the ordering of the deliverable using the mobile phone to transmit a response to the merchant system or a carrier system.

However, Foladare et al. teach a system for permitting a user to authorize, via a mobile phone, an impending transaction by having the user transmit an authorization code to a central computer (Abstract; col. 4, lines 35-49 and 58-67; and col. 5, lines 1-8). The user's contact phone number is retrieved from a database of user profiles (Id.). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Gardner et al. to include the teachings of Foladare et al. in order to permit the confirmation of the customer's order from a remote location other than the user's computer system. This would be advantageous in situations where the user is unable to wait at the location of his computer for the confirmation of his order.

Regarding claims 40 and 41, Gardner et al. teach a computer program product comprising a computer readable medium, having thereon computer program product

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means, when said program is loaded, for processing by a merchant system the order of a customer for a deliverable that is offered by the merchant system at a certain price, the customer having access to a customer system and a mobile phone with associated phone number, execute procedure to:

enable the customer system to display the deliverable to the customer (col. 4, lines 51-67; col. 5, liens 24-67; and col. 6, lines 1-12);

enable the customer to order the deliverable at the merchant system via the customer system and a network (col. 6, lines 1-12); and

make the deliverable available to the customer (col. 5, lines 24-67; and col. 6, lines 1-12).

Gardner et al. do not teach a computer program product comprising a computer readable medium, having thereon computer program product means, when said program is loaded, for processing by a merchant system the order of a customer for a deliverable that is offered by the merchant system at a certain price, the customer having access to a customer system and a mobile phone with associated phone number, execute procedure to:

enable the sending of an order confirmation for the deliverable to the mobile phone using the phone number and receive an order confirmation or payment confirmation from a carrier system.

However, Foladare et al. teach a system for permitting a user to authorize, via a mobile phone, an impending transaction by having the user transmit an authorization code to a central computer (Abstract; col. 4, lines 35-49 and 58-67; and col. 5, lines 1-

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8). The user's contact phone number is retrieved from a database of user profiles (*Id.*).

At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Gardner et al. to include the teachings of Foladare et al. in order to permit the confirmation of the customer's order from a remote location other than the user's computer system. This would be advantageous in situations where the user is unable to wait at the location of his computer for the confirmation of his order.

**16. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) and Morril, Jr. (US 5,991,749).**

Nikander and Foladare et al. teach all the limitations discussed under claim 221 above. Nikander and Foladare et al. do not teach a special call-in number assigned to the call-in unit so that the call-in unit is reachable from the mobile phone when dialing the call-in number. However, Morril et al. teach a system wherein a cell phone functions as an electronic wallet and a user identifies a function by transmitting a code to a call-in unit that is connected to a CPU (col. 2, lines 32-44). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare et al. in that including a special call-in number assigned to the call-in unit would enable the customer to identify and contact the merchant system thereby enabling the customer to confirm his order.

**17. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikander (US 6,029,151) in view of Foladare et al. (US 5,914,472) and Coiera et al. (US 5,949,866).**

Nikander and Foladare et al. teach all the limitations discussed under claim 20 above. Nikander and Foladare do not teach a module that causes a confirmation address to be transmitted in the form of a GSM SMS message. However, Coiera et al. teach transmitting messages to a user by SMS (col. 3, lines 47-57; and col. 4, lines 49-57). At the time of the applicants' invention, it would have been obvious to one of ordinary skill in the art, to modify Nikander and Foladare to include a module that causes a confirmation address to be transmitted in the form of a GSM SMS message as taught in Coiera et al. The benefit of this combination would be to permit users to receive an order confirmation without having to affirmatively access his voicemail as would be required with voicemail should the user not be available to receive a voice order confirmation.

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. Bartoli et al. (US 6,047,268) 4 April 2000; method and apparatus for billing for transactions conducted over the Internet
- b. Petrovich et al. (US 6,101,483) 8 August 2000; personal shopping system portable terminal
- c. Bouanaka et al. (US 6,023,502) 8 February 2000; method and apparatus for providing telephone billng and authentication over a computer network

- d. Griffith (US 6,195,541) 27 February 2001; Interaction of a wireless telephone with a transaction unit
- e. Ronen et al. (US 5,905,736) 18 May 1999; method for selling of transactions over the Internet
- f. "Telcos move to control e-payments space," Cards International (June 25, 1999)
- g. "Competition: Consumers' Phone Bills May Compete With Card Usage Over the Internet," Credit Card News (August 15, 1999)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim Brown whose telephone number is (703) 305-1912.

The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Tim Brown  
Examiner  
Art Unit 3625



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SUPERVISORY PATENT EXAMINER  
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